

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
)	
v.)	CASE NO.: 2:05-cr-119-MEF
)	
DON EUGENE SIEGELMAN and)	
RICHARD M. SCRUSHY)	

ORDER

In order that the record in this case may be clear with respect to Count Three of the Second Superseding Indictment as to Defendant Scrushy and Count Four of the Second Superseding Indictment as to Defendant Siegelman, it is hereby ORDERED that the Clerk of the Court shall docket this statement regarding those counts. Prior to trial, Defendants Siegelman and Scrushy filed motions to dismiss based on multiplicity (Doc. # 123 and Doc. # 140). The Court initially denied the motions, but in so doing acknowledged that the aiding and abetting charges were multiplicitious and held that the Government would be required to elect a remedy for this problem during trial. *See* Doc. # 254. During trial, the Government asks the Court to reconsider that ruling. *See* Doc. # 422. The Court orally denied that motion on June 13, 2006. As a result of these rulings, the Government was required to correct the multiplicity in the Second Superseding Indictment. The Government elected to do so by dismissing Count Three of the Second Superseding Indictment against Defendant Scrushy and Count Four of the Second Superseding Indictment against Defendant Siegelman. Having been so dismissed, these charges were not presented to the jury.

DONE this the 3rd day of July, 2007.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE